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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,802	08/28/2003	Brenda Thornton	THOR03	2018
7590	05/12/2004			
Boyd D. Cox Suite 506 75 N. East Avenue Fayetteville, AR 72701			EXAMINER FERNSTROM, KURT	
			ART UNIT 3712	PAPER NUMBER

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/652,802	Applicant(s) THORNTON, BRENDA	
	Examiner Kurt Fernstrom	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-20 and 22-29 is/are rejected.
- 7) ☒ Claim(s) 11-13 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-8, 14, 15 and 26-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5, 26 and 29 recite a "third recess"; however, this limitation lacks antecedent basis as no first or second recesses were previously mentioned. Similarly, claim 14, recites a "second recess", where no first recess has been recited as part of the invention. Also, claim 29 recites a "gripping means", about 2/3 of the way down page 25. The use of "means" without an accompanying function makes it unclear whether applicant is attempting to invoke 35 USC 112 p. 6, which requires that means-plus-function claim language be interpreted in light of the disclosure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 3, 16-20, 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings. Cummings discloses in Figures 1-8 and in the specification a kit for making rubbings comprising a rubbing board 16, and rubbing objects 14, where the rubbing board is a cover having first and second surfaces where a first surface is a work surface for supporting the rubbing object (best shown in Figure 7) and where the rubbing objects comprise raised relief patterns on a front surface. While the term "bas relief" is not explicitly used in the Cummings disclosure, any differences between bas relief and the raised relief patterns of Cummings are considered to be obvious variations. With respect to claim 2, Cummings discloses that the work area is contained within a depression in the cover. The remainder of the cover can roughly be said to be a "sidewall". With respect to claims 3 and 24, the rubbing object inherently forms a frictional engagement with the first surface of the cover, as best shown in Figure 7. With respect to claims 16-20, it is well known that markers conventionally comprise writing elements and holders in the form of caps, which generally have a snap-fit connection that works in substantially the same manner as the gripping means of claims 19 and 20. With respect to claim 22, Cummings discloses the use of a sheet of paper to make rubbings. While Cummings does not specifically disclose a marker, a marker is considered to be obvious in light of Cummings' disclosure of a crayon or colored pencil. A marker fulfills substantially the same function.

Claims 4, 5, 23, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Slayton. Cummings discloses all of the limitations of the claims with the exception of the storage areas. Slayton discloses in

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column 6, lines 16-22 a drawing board comprising a recess 12 which can be used to store various items, including paper. It would have been obvious to one of ordinary skill to modify the device disclosed by Cummings by providing a storage area for the purpose of allowing the user to store paper and other items therein. While Slayton does not disclose a plurality of recesses, such a feature is considered to be an obvious multiplication of the same part. Segmented storage areas are well known for allowing a user to separately store different items. With respect to claim 23, Cummings fails to disclose the depression and sidewall as claimed. Slayton discloses a board where a sheet of paper is placed within a depression defined by a sidewall, to make a rubbing. It would have been obvious to one of ordinary skill to modify the device disclosed by Cummings by providing a recess and sidewall which contains a sheet of paper for the purpose of allowing the user to more easily place a sheet of paper over a rubbing object.

Claims 6-8 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Slayton, and further in view of Dietterich. Cummings as viewed in combination with Slayton discloses all of the limitations of the claims with the exception of the pivotal attachment of the top portion of the rubbing board to the bottom portion. Dietterich discloses in Figures 1 and 8 and in column 4, lines 17-41 a drawing board where a top surface 12 used for support is pivotally attached to a bottom portion. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Cummings as viewed in combination with Slayton by providing hingedly attached top and bottom portions for the purpose of providing a lid to a storage

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area. With respect to claims 7, 8 and 28, Ditterich further discloses a latching mechanism 13 for securing the support surface 12 in place. While Dieterich does not disclose a first latching part and a second latching part as recited in claim 8, Official Notice is taken that such latching mechanisms are well known. Further, the latching device of Dieterich operates in substantially the same manner; therefore, the limitations of claim 8 are considered to be an obvious variation on the pertinent teachings of Dieterich.

Claims 9, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings in view of Fristedt. Cummings discloses all of the limitations of the claims with the exception of the marker holder. Fristedt discloses in Figures 1-3 a drawing board comprising a recess 22 which is used to store markers. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Cummings by providing a recess in the board for the purpose of allowing a user to store markers therein.

Allowable Subject Matter

Claims 11-13 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Claim 29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest the limitations of the allowable claims. With respect to claims 11, 12, and 29, there is no suggestion in the prior art of a means for releasably retaining the marker in the recess as described in the disclosure. With respect to claims 14 and 15, there is no suggestion of a recess which is a rubbing object holder. Cummings teaches away from such a holder, as its rubbing objects are rotatably attached to the board, and are not separate objects as in the present invention. With respect to claim 21, there is no suggestion in the prior art of a second hinge as claimed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Knott, Nuttal, Harper, Woods, Mannino and Wandriok disclose various art kits.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF
May 11, 2004

Kitt Fet
Kurt Fernstrom